

IN THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF MISSISSIPPI  
EASTERN DIVISION

MARQUIS TILMAN,

Plaintiff,

VS.

Civil No. 2:20-cv-10-KS-MTP

CLARKE COUNTY, MISSISSIPPI, et al.

Defendants.

## DEPOSITION

OF

DEPUTY AUSTIN TOUCHSTONE

SEPTEMBER 29, 2021

ALPHA REPORTING -- A VERITEXT COMPANY

236 Adams Avenue

Memphis, Tennessee 38103

901-523-8974

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1 The deposition of AUSTIN TOUCHSTONE is  
 2 taken on this, the 29th day of September 2021, on  
 3 behalf of the Plaintiff, pursuant to notice and  
 4 consent of counsel, beginning at approximately  
 5 3:00 p.m. via Zoom video conference.

6 This deposition is taken pursuant to the  
 7 terms and provisions of the Federal Rules of  
 8 Civil Procedure.

9 All forms and formalities are waived.

10 Objections are reserved, except as to form of the  
 11 question, to be disposed of at or before the  
 12 hearing.

13 The signature of the witness is not  
 14 waived.

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1 I N D E X  
 2  
 3 EXAMINATION INDEX  
 4

5 AUSTIN TOUCHSTONE

6 BY MR. MOORE

5

7  
 8 EXHIBIT INDEX

9 EXHIBIT NO. DESCRIPTION PAGE

10 EXHIBIT NO. 1 Statement by Austin  
 Touchstone. CLT Tilman 88.

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1 APPEARANCES

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1 AUSTIN TOUCHSTONE,

2 Having been first duly sworn, was  
 3 examined and testified as follows:

4 EXAMINATION

5 BY MR. MOORE:

6 Q. State your name.

7 A. Robert Austin Touchstone.

8 Q. Were you present for the last  
 9 deposition?

10 A. No, sir.

11 Q. Okay. I'll give you the ground rules  
 12 for your deposition. Continue to answer verbally  
 13 as you're doing so the court reporter, Polly, can  
 14 get everything down correctly. Okay?

15 A. Yes, sir.

16 Q. When I'm talking I'm going to ask that  
 17 you remain quiet, and when you're talking I will  
 18 do the same so that we do not talk over each  
 19 other and confuse the court reporter. Okay?

20 A. Yes, sir.

21 Q. I have a tendency to talk fast, so if  
 22 you can't understand me, let me know. I will  
 23 repeat or rephrase the question. Okay?

24 A. Okay.

25 Q. I will assume you understood the

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2 (Pages 2 - 5)

<p>1 question if in fact you answer. Is that fair?</p> <p>2 A. Yes.</p> <p>3 Q. If you need to take a break at any time,</p> <p>4 let me know. I will allow you to take a break.</p> <p>5 However, if there's a pending question, I ask</p> <p>6 that you answer that question before taking any</p> <p>7 break. Deal?</p> <p>8 A. Yes, sir.</p> <p>9 Q. Have you ever gone by any other name or</p> <p>10 alias besides Robert Austin Touchstone?</p> <p>11 A. No, sir.</p> <p>12 Q. What is your address?</p> <p>13 A. 610 South River Road, Enterprise, 39330.</p> <p>14 Q. Enterprise, Mississippi?</p> <p>15 A. Yes, sir.</p> <p>16 Q. 3930 --</p> <p>17 A. 39330.</p> <p>18 Q. 39330, okay. How long have you lived at</p> <p>19 that address?</p> <p>20 A. I just had an anniversary, so six years.</p> <p>21 Q. Do you live there with your wife?</p> <p>22 A. Yes, sir.</p> <p>23 Q. Or your wife lives there with you?</p> <p>24 A. Well, either way. We both live there.</p> <p>25 Q. Okay. What is your wife's name?</p>	<p>1 A. 601-513-8962.</p> <p>2 Q. Your date of birth?</p> <p>3 A. Excuse me?</p> <p>4 Q. Your date of birth?</p> <p>5 A. Oh, I'm sorry. June 30, 1988.</p> <p>6 Q. How old are you?</p> <p>7 A. Thirty-three.</p> <p>8 Q. What year did you finish high school?</p> <p>9 A. 2006.</p> <p>10 Q. Where did you go?</p> <p>11 A. Enterprise.</p> <p>12 Q. Enterprise High school?</p> <p>13 A. Yes, sir.</p> <p>14 Q. Is that in Clarke County?</p> <p>15 A. Yes, sir.</p> <p>16 Q. What did you do after high school?</p> <p>17 A. Sir, you broke up.</p> <p>18 Q. What did you do job wise after high</p> <p>19 school?</p> <p>20 A. Well, at first I went to work with a</p> <p>21 telecommunications place. And then I went to</p> <p>22 East Mississippi Community College to get an</p> <p>23 electrical lineman degree, and then I went to</p> <p>24 work.</p> <p>25 Q. Did you finish at East Mississippi in</p>
<p>Page 6</p> <p>1 A. Jessica Touchstone.</p> <p>2 Q. What's her maiden name?</p> <p>3 A. Risher. It's R-I-S-H-E-R.</p> <p>4 Q. Jessica Risher Touchstone?</p> <p>5 A. Yes, sir.</p> <p>6 Q. And y'all have been married six years?</p> <p>7 A. This past Sunday.</p> <p>8 Q. Congratulations.</p> <p>9 A. Thank you.</p> <p>10 Q. Do you have an ex-wife?</p> <p>11 A. No, sir.</p> <p>12 Q. Do you have any adult children?</p> <p>13 A. No, sir.</p> <p>14 Q. Any other adult relatives in the general</p> <p>15 vicinity in south Mississippi?</p> <p>16 A. Yes, sir. They're all over Enterprise</p> <p>17 and Clarke County, but they're mostly Touchstones</p> <p>18 and Rishers. And that's it as far as off the top</p> <p>19 of my head.</p> <p>20 Q. What's your mother's maiden name?</p> <p>21 A. Bachelor.</p> <p>22 Q. Is she from the area?</p> <p>23 A. No, sir.</p> <p>24 Q. Okay. Give me a phone number where you</p> <p>25 can be reached?</p>	<p>Page 8</p> <p>1 electrical lineman?</p> <p>2 A. Yes, sir.</p> <p>3 Q. So you went there about two years?</p> <p>4 A. No, sir. It was only a semester deal,</p> <p>5 like an 18-week class.</p> <p>6 Q. Okay. So what was your first job after</p> <p>7 East Mississippi?</p> <p>8 A. I went to work with Southern Electric</p> <p>9 out of -- around Jackson.</p> <p>10 Q. How long did you stay there?</p> <p>11 A. I'm not exactly sure to be honest with</p> <p>12 you. It wasn't very long. I had gotten another</p> <p>13 job with another company, and I worked there for</p> <p>14 like three months and went to work for the East</p> <p>15 Mississippi Electric Power Association.</p> <p>16 Q. How long did you stay as a lineman</p> <p>17 before you changed to law enforcement?</p> <p>18 A. I was there for two years. Then in 2009</p> <p>19 or '10 -- I can't exactly remember -- I went to</p> <p>20 the part-time academy at Meridian community</p> <p>21 College. Well, it was actually at Meridian</p> <p>22 Training Facility, but I believe it was through</p> <p>23 the community college. And I went to work for</p> <p>24 Stonewall PD.</p> <p>25 And from Stonewall PD I went to work at</p>

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3 (Pages 6 - 9)

<p>1 Quitman Police Department, and they're the ones  2 that sent me to the academy.</p> <p>3 Q. You finished the academy?</p> <p>4 A. Yes, sir.</p> <p>5 Q. Was that the police academy at Pearl?</p> <p>6 A. No, sir. It was the one at Camp Shelby.</p> <p>7 Q. What year did you finish the police  8 academy at Camp Shelby?</p> <p>9 A. 2012.</p> <p>10 Q. What was your first job after that?</p> <p>11 A. I stayed at Quitman until the end of  12 that year and then I went to work for Clarke  13 County Sheriff's Office.</p> <p>14 Q. You've been with Clarke County Sheriff's  15 Department since.</p> <p>16 A. No, sir. I left not long after that and  17 went to the oil field. And I stayed gone for  18 approximately three, maybe four years. I'm not  19 exactly sure. I think it was three -- four  20 because I came back in '17 I believe it was.  21 October 2nd of 2017 is when I came back.</p> <p>22 Q. And you've been back with the Sheriff's  23 Department since then?</p> <p>24 A. Yes, sir.</p> <p>25 Q. Why did you go back to the Sheriff's</p>	<p>1 workman's comp while I was off.</p> <p>2 Q. Okay. No other injuries on the job that  3 you know of?</p> <p>4 A. No, sir.</p> <p>5 Q. Have you ever filed bankruptcy?</p> <p>6 A. No, sir.</p> <p>7 Q. Have you ever been accused of excessive  8 force?</p> <p>9 A. No, sir.</p> <p>10 Q. Have you ever been disciplined on the  11 job?</p> <p>12 A. No, sir.</p> <p>13 Q. Have you ever been asked to leave a job?</p> <p>14 A. No, sir.</p> <p>15 Q. Ever terminated?</p> <p>16 A. No, sir.</p> <p>17 Q. Have you ever been a member of any  18 racially exclusive group or organization?</p> <p>19 A. You froze. I apologize; you froze up,  20 sir.</p> <p>21 Q. I asked you have you ever been a member  22 of any racially exclusive group or organization?</p> <p>23 A. Oh, no, sir.</p> <p>24 Q. Can you hear me? Can you hear me?</p> <p>25 A. Yes, sir. I heard you.</p>
<p>Page 10</p> <p>1 Department?</p> <p>2 A. I got laid off and I needed some health  3 insurance. That's just the truth.</p> <p>4 Q. And what's your rank at the Sheriff's  5 Department?</p> <p>6 A. Deputy.</p> <p>7 Q. Do you supervise anyone?</p> <p>8 A. No, sir.</p> <p>9 Q. Have you ever been convicted of a crime?</p> <p>10 A. No, sir.</p> <p>11 Q. Have you ever been involved in any  12 lawsuit besides this one?</p> <p>13 A. No, sir.</p> <p>14 Q. You've never been sued before?</p> <p>15 A. I've never been sued, no, sir.</p> <p>16 Q. Have you ever sued anybody?</p> <p>17 A. No, sir.</p> <p>18 Q. Have you ever had a workers' comp  19 injury?</p> <p>20 A. I have.</p> <p>21 Q. Tell me about that.</p> <p>22 A. Well, it's my finger. These two fingers  23 (indicating). When I worked for the East  24 Mississippi Electric Power Association my finger  25 got hung in a chain. I mean, they paid me</p>	<p>Page 12</p> <p>1 Q. Okay. Do black lives matter?</p> <p>2 A. One more time?</p> <p>3 Q. Do black lives matter?</p> <p>4 A. All lives matter.</p> <p>5 Q. I didn't ask you about all lives. My  6 question is do black lives matter?</p> <p>7 A. Yes, sir, all lives matter, so that  8 would include black lives matter.</p> <p>9 Q. All right. What made you refrain or  10 have the retort all lives matter because I asked  11 you about black lives matter?</p> <p>12 A. Well, because to me all lives matter. I  13 don't care if you're black or what. Everybody  14 matters.</p> <p>15 Q. Can you say black lives matter without  16 saying all lives matter?</p> <p>17 A. Black lives matter.</p> <p>18 Q. Okay. Happy to hear you say that.  19 Do you have any black friends?</p> <p>20 A. Sir?</p> <p>21 Q. Do you have any black friends?</p> <p>22 A. Yes, sir.</p> <p>23 Q. All right. How many?</p> <p>24 A. Oh, I don't know. I don't know exactly  25 how many. I mean, I've got several. I mean, I</p>

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4 (Pages 10 - 13)

1 grew up -- where I grew up at we had neighbors  
 2 and we all hung out. And some of them are older  
 3 and dead and gone, and some of them now that I've  
 4 got I still talk to on a daily basis.

5 Q. Can you give me some of their names,  
 6 your black friends' names?

7 A. Well, one of them is Winston Gray and  
 8 his son Darrion. Matter of fact, they just came  
 9 and used my tractor the other day, matter of  
 10 fact. Jacob Burns was an older guy I used to  
 11 live next to, and we used to pin cows and stuff  
 12 together with him. He was a good fellow. I hate  
 13 he had a heart attack. I know you didn't ask for  
 14 that, but anyway.

15 There's just several that we work with  
 16 around. I don't really -- I guess I could sit  
 17 here all day and answer that.

18 Q. I've got time if you've got names.

19 A. Well, you know what I mean. It's hard  
 20 on a day-to-day basis the people that you come in  
 21 contact with, is what I'm saying. I mean, I  
 22 don't know. You know what I'm saying? It's  
 23 like...

24 Q. Well, let the record reflect you named  
 25 two black friends that you could immediately

1 turn in -- I guess a statement would be because  
 2 it was requested by an investigating officer of  
 3 our account. The report would be done by the  
 4 investigating officer.

5 Q. Okay. Who asked you to do a statement?

6 A. I believe it was Ben Ivy I think is who  
 7 asked me.

8 Q. Okay. Who is Ben Ivy?

9 A. He was a narcotics agent.

10 Q. Did he work for Clarke County Sheriff's  
 11 Department?

12 A. Yes, sir, he used to.

13 Q. Okay. So you did a report. Did you do  
 14 your report on the same day of the incident?

15 Your statement?

16 A. Can I look at my statement to see  
 17 exactly when it was dated?

18 MS. MALONE: Ask him to show it to you.

19 A. Can you show me mine to see when it was  
 20 dated?

21 (WHEREUPON, THE ABOVE-MENTIONED DOCUMENT  
 22 WAS DISPLAYED TO THE WITNESS.)

23 A. Yes, sir, that's the day it was dated.

24 BY MR. MOORE:

25 Q. 3/21/19?

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1 recall their names. Winston and Jacob. And  
 2 Jacob is deceased. He had a heart attack  
 3 unfortunately.

4 Do you go to church with anybody black  
 5 people?

6 A. Yeah. Cogan and Pee Wee McGruger. They  
 7 go to my church and their family, but I don't  
 8 really know their family too much.

9 Q. Is it safe to say that most of the folks  
 10 at your church are white?

11 A. Yes, sir.

12 Q. Did you play ball coming up?

13 A. I played -- like in junior high I played  
 14 football and baseball, but I was more like a  
 15 horse person. So I mean I rodeoed. I stayed on  
 16 the road. I didn't really hang out with nobody  
 17 that played ball and stuff.

18 Q. Okay. Did you do a report concerning  
 19 the Marquis Tilman incident that happened on  
 20 March 21st, 2019?

21 A. I did a statement, yes, sir.

22 Q. You did a statement? What's the  
 23 difference between a report and a statement?

24 A. A statement is -- I guess from what I  
 25 recall, a report would be something that we would

1 A. Yes, sir.

2 Q. Is that your signature?

3 A. Yes, sir, that is. It's got the C-8  
 4 after it.

5 Q. Okay.

6 MR. MOORE: We're going to make this  
 7 Exhibit 1 to his deposition. That's CLT Tilman  
 8 00088. So CLT Tilman 88.

9 (WHEREUPON, THE ABOVE-MENTIONED DOCUMENT  
 10 WAS MARKED AS EXHIBIT NO. 1 TO THE TESTIMONY OF  
 11 THE WITNESS AND IS ATTACHED HERETO.)

12 Q. So you go by Austin instead of Robert?

13 A. Yes, sir.

14 Q. Why is that?

15 A. That's what my mom called me.

16 Q. Okay. In your own words tell me what  
 17 happened in regards to Marquis Tilman and Clarke  
 18 County Sheriff's Department on or about March  
 19 21st, 2019.

20 Hello? Can you hear me?

21 A. I can't hear you. You're frozen. I can  
 22 see you now.

23 Q. My question was can you tell me in your  
 24 own words what happened in regards to Marquis  
 25 Tilman and Clarke County Sheriff's Department on

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5 (Pages 14 - 17)

<p>1 March 21st, 2019?</p> <p>2 A. Yes, sir. I was -- I'm a school 3 resource officer for Enterprise, and it was about 4 time for bus traffic. I remember hearing, I 5 believe it was, Agent Ivy said he was in a chase 6 and they were northbound on 45.</p> <p>7 So I radioed to see if my supervisor at 8 the time -- or not really my supervisor but the 9 next guy we had down at the time wanted me to go 10 across Highway 514 which went across to 45. And 11 while I was on 514 they had said that Mr. Tilman 12 was going to turn and get on 514 and come towards 13 the school.</p> <p>14 Well, at that time there's an 15 intersection a crossroad highway, County Road 16 350. If he would have took a right he would have 17 went straight to Clarkdale School. If he would 18 have went straight, he would have went to my 19 school. So what I did was at the time I placed 20 my vehicle where the only way he could go is 21 either he was going to hit my vehicle or go 22 towards Stonewall, which at the time was the 23 safest place being that we've got 2,000 kids 24 fixing to be on the road.</p> <p>25 But I don't know what happened. He</p>	<p>1 that to him?</p> <p>2 A. No, sir. The only time -- I apologize 3 for interrupting. No, sir, I didn't see nobody 4 touch him as far as -- or beat him or anything.</p> <p>5 Q. How did he look in his face -- how did 6 his face and body look to you when you arrived?</p> <p>7 A. Can you repeat that because you froze 8 again.</p> <p>9 Q. How did he look? How did Mr. Tilman 10 look when you arrived?</p> <p>11 A. I don't recall. I mean, he had just 12 been in a car wreck. But I mean, as far as like 13 -- I mean, what are you asking?</p> <p>14 Q. How he looked. How did his face look? 15 How did his body look?</p> <p>16 A. If I'm not mistaken -- now, don't hold 17 me to this. I can't exactly remember. But I 18 think he had a busted lip maybe. But then again, 19 he had just been in a car wreck.</p> <p>20 Q. He had just been in a car wreck or he 21 had just had his ass beat. One or the other, 22 correct?</p> <p>23 A. I don't believe he got his ass beat, but 24 he had just been in a car wreck.</p> <p>25 Q. You were not there, were you? So you</p>
<p>Page 18</p> <p>1 turned around and went back south. When I heard 2 him go south I left where I was at. And by the 3 time I got to them I believe they were just a few 4 miles south of 514. I'm not exactly sure. They 5 were just a few miles south of 514. When I got 6 there they basically put him in my truck I had at 7 the time, and I transported him to the jail.</p> <p>8 Q. So did you witness any of the beating?</p> <p>9 A. As far as I know there was no beating. 10 I wasn't there. He was in handcuffs when I got 11 there.</p> <p>12 Q. Was he in anyone else's vehicle when you 13 got there? Was he sitting on the ground? What 14 did you see? Tell me exactly what you saw when 15 you got there.</p> <p>16 A. He was -- they had him up and he was 17 walking like back toward my truck. Like, they 18 were -- I think the sheriff said to put him in 19 the vehicle and take him on, you know. And he 20 was walking back towards my truck because I was 21 pulling up and they wanted me to transport him.</p> <p>22 Q. So you didn't punch, kick, stomp, beat 23 Mr. Tilman?</p> <p>24 A. No, sir.</p> <p>25 Q. Did you see any of your colleagues do</p>	<p>Page 20</p> <p>1 can't say --</p> <p>2 A. (Inaudible).</p> <p>3 Q. Excuse me? Deputy?</p> <p>4 A. You froze up again, sir.</p> <p>5 Q. You were not there so you don't know if 6 he got his ass beat or not, do you?</p> <p>7 A. You broke up again, sir.</p> <p>8 Q. You were not there so you don't know if 9 he got his ass beat or not, do you?</p> <p>10 A. Correct, I was not there.</p> <p>11 Q. You do know that Sheriff Kemp said on 12 the radio to shut him down and beat his ass. Did 13 you hear that on the radio?</p> <p>14 A. I did hear that on the radio.</p> <p>15 Q. And did you obey the command of the 16 sheriff to beat his ass?</p> <p>17 A. No, sir, I didn't beat his ass.</p> <p>18 Q. Why didn't you obey your superior 19 officer?</p> <p>20 A. Because I don't know what the 21 circumstances was for saying that, but the way 22 personally I handle myself and these other guys 23 is in a professional manner. And just going up 24 and beating somebody's ass isn't something that 25 we do.</p>

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6 (Pages 18 - 21)

1 Q. Even if your boss tells you to do it?  
 2 A. I don't just go around beating people's  
 3 ass.  
 4 Q. But you had permission, Deputy. Why  
 5 didn't you do what you were told to do by your  
 6 boss?  
 7 A. Sir, you broke up. I heard you say you  
 8 had permission, but that was all I heard.  
 9 Q. So why didn't you obey your boss when  
 10 you had permission to beat somebody's ass?  
 11 A. Well, for one, like I said, I just don't  
 12 go around beating people's ass. Number two,  
 13 that's unprofessional. And like I said,  
 14 everybody here handles their self in as much of a  
 15 professional manner as we can.  
 16 I don't know the circumstances of why  
 17 the sheriff said what he said, but what I know is  
 18 my sheriff -- that's not how he is. So I don't  
 19 exactly know what made him say that. I didn't  
 20 see none of that. But I know that my sheriff  
 21 isn't like that.  
 22 So if he would have said something like  
 23 that, something had to have happened. And I  
 24 don't know what it was. But we don't just go  
 25 around beating people's ass. We handle ourselves

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1 say it would be proper and I wouldn't say it  
 2 would by okay.  
 3 Now, you can use defense tactics if you  
 4 had to, to do what you had to do to make an  
 5 arrest.  
 6 Q. But you know that defense tactics is not  
 7 the same thing as beating somebody's ass --  
 8 A. That's correct.  
 9 Q. That's --  
 10 A. Sir?  
 11 Q. Defense tactics is to protect yourself  
 12 from being hurt, correct?  
 13 A. Yes, sir, and the suspect as well.  
 14 Q. So that's not beating somebody's ass, is  
 15 it?  
 16 A. No, sir, it's not.  
 17 Q. Did you talk to the sheriff about his  
 18 statement after he said it?  
 19 A. No, sir, I didn't. I never talked to  
 20 him about it.  
 21 Q. Why not?  
 22 A. Honestly, after that I didn't think  
 23 nothing about it, to be honest with you, because  
 24 like I said it's not something -- that's not my  
 25 sheriff and I really just -- I didn't think

Page 24

1 in a professional manner as possible and that's  
 2 just how we operate around here.  
 3 Q. Were you shocked when you heard the  
 4 sheriff say those words?  
 5 A. In all honesty, I was shocked because,  
 6 like I said, he's never acted that way. I've  
 7 never seen or heard him act that way ever.  
 8 That's why I'm saying we don't -- I mean,  
 9 something had to have happened, and I don't know  
 10 what happened because I didn't see it.  
 11 Q. Would there ever be a time to justify  
 12 the sheriff saying beat somebody's ass like that?  
 13 A. Sir, you're frozen. I see you now.  
 14 Q. Would there ever be a time where the  
 15 sheriff would be justified in saying beat  
 16 somebody's ass?  
 17 A. I don't -- I mean, what are you asking  
 18 as far as beating somebody's ass?  
 19 Q. When would it be proper for the sheriff  
 20 to make that statement or give that command?  
 21 A. I don't exactly know that -- I mean, if  
 22 it was said like -- I don't know if you would say  
 23 it would be proper, but if you said something  
 24 like that in the heat of the moment maybe, I mean  
 25 I can see him maybe saying it. But I wouldn't

Page 23

1 nothing else about it. Once I transported  
 2 Mr. Tilman to the jail I didn't think anything  
 3 else about it.  
 4 Q. Why didn't you quit after hearing  
 5 something so egregious said by your boss?  
 6 A. Sir?  
 7 Q. Why didn't you just quit after he said  
 8 that?  
 9 A. Quit what?  
 10 Q. Quit your job.  
 11 A. Why would I quit my job because of my  
 12 sheriff saying something like that under whatever  
 13 circumstances it was. Because I know my sheriff  
 14 and I know he's a good man, and I know that's not  
 15 how he operates.  
 16 Q. So you think it was just a Freudian slip  
 17 or something?  
 18 A. Do what now?  
 19 Q. You think it was just a Freudian slip of  
 20 the tongue?  
 21 A. Yes, sir, I believe. Like I said, I  
 22 believe something had to have happened for him to  
 23 say it.  
 24 Q. Or do you believe that's something that  
 25 was really in his heart that he just let come out

Page 25

7 (Pages 22 - 25)

1 that's been in his heart for a while?  
 2 A. No, sir.  
 3 Q. Have you ever heard the sheriff use the  
 4 N word?  
 5 A. No, sir.  
 6 Q. Do you use the N word?  
 7 A. No, sir, I don't.  
 8 Q. Have you ever used it?  
 9 A. Probably in my past, but I have a lot of  
 10 things -- I mean, everybody has a past I guess.  
 11 Q. What would make you use the N word in  
 12 your past?  
 13 A. The crowd I was hanging around I guess.  
 14 I don't know.  
 15 Q. You knew it was wrong when you said it?  
 16 A. Yes, sir. And like I said, I don't use  
 17 those -- I don't talk like that anymore.  
 18 Q. When's the last time you think you  
 19 talked like that?  
 20 A. Man, I don't know. I don't know. It's  
 21 been a while.  
 22 Q. Last year. Two years ago?  
 23 A. Oh, no. This was probably -- if -- I  
 24 mean, when and if I said it, it was way when I  
 25 was younger probably not far out of high school

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1 A. I'm sure just like most everybody else  
 2 did at the time when they were younger.  
 3 Q. So if the crowd was beating Mr. Tilman  
 4 on March 21st, 2019, did you join in the crowd  
 5 since you're a follower?  
 6 A. No, sir. And that's what I'm trying to  
 7 tell you. No, sir, I wouldn't have.  
 8 Q. How much do you weigh?  
 9 A. How much do I weigh?  
 10 Q. Yes.  
 11 A. Well, I weighed this morning and I  
 12 weighed 278 pounds.  
 13 Q. 278 pounds. And how tall are you?  
 14 A. 510, I think.  
 15 Q. And were you about the same size in 2019  
 16 on the date of this incident?  
 17 A. I'm not really sure. Probably, yes,  
 18 sir. I'm a big guy. Always been a big guy.  
 19 Q. Okay. How big is Mr. Tilman? He was a  
 20 pretty small guy, wasn't he?  
 21 A. Best of my memory, yes, sir. I really  
 22 don't exactly recall. That was a long time ago.  
 23 Q. Did you ever come to his rescue while he  
 24 was getting beaten?  
 25 A. I've never been nowhere where he was

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1 maybe.  
 2 Q. You said if and when and maybe, not far  
 3 maybe. But you don't know for certain? It could  
 4 have been five years ago, three years ago?  
 5 A. No, sir. I mean, like I said, I've done  
 6 things that I'm not happy with, but I couldn't  
 7 tell you when it was because, I mean, five years  
 8 ago I was on a drilling rig and I wouldn't said  
 9 it then. Because like I said, I was a changed  
 10 person.  
 11 Q. What changed you? Did you find the  
 12 Lord?  
 13 A. Man, I mean, I don't know. Settling  
 14 down I guess.  
 15 Q. Well, you've only been married for six  
 16 years, so that's called settling down. So once  
 17 you got married you stopped using the N word?  
 18 A. No, sir, it was before then. I don't  
 19 know exact dates of when or whatever. I mean,  
 20 I'm not going to sit here and tell you I've never  
 21 said it. Like I said, I'm sure I have, but it's  
 22 been a long time ago. I'm not the same person I  
 23 was even in high school.  
 24 Q. You were just following the crowd back  
 25 then?

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1 getting beaten.  
 2 Q. Okay. So you think he made all this up?  
 3 A. I wasn't there. I don't know -- I've  
 4 never seen him get beaten. But I do know that my  
 5 fellow officers handle their selves in a very  
 6 professional manner on everything that we do.  
 7 But I wasn't there, so I never saw him getting  
 8 beaten.  
 9 Q. Have all of your answers been true and  
 10 correct?  
 11 A. Yes, sir.  
 12 Q. How old is the sheriff, Sheriff Kemp?  
 13 What age is he?  
 14 A. I really don't know. He's probably --  
 15 he's probably late 50s maybe. I'm really not  
 16 sure to be honest with you.  
 17 Q. Okay. Do you think he has a problem  
 18 with anger management?  
 19 A. I don't think so. He hasn't ever gotten  
 20 angry with me personally.  
 21 Q. But you're white and this guy was black.  
 22 Do you think he's calm with white people and get  
 23 angry with blacks?  
 24 A. No, sir. Like I told you earlier, my  
 25 sheriff isn't like that.

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8 (Pages 26 - 29)

1 Q. So you just believe this was just a one  
 2 occurrence where he just said something he  
 3 shouldn't have said over the radio?  
 4 A. I think -- personally out of my own  
 5 opinion, I think something had to have happened.  
 6 And I don't know exactly what happened, but  
 7 something had to have happened for him to say it.  
 8 And that's what I know. I know that my sheriff  
 9 has got a good heart, and I know that he didn't  
 10 mean it probably the way that it come out to be.  
 11 Q. Did it fly all over town that he had  
 12 said it? It spread over town pretty fast, didn't  
 13 it?  
 14 A. I don't have no idea about none of that  
 15 now.  
 16 Q. Have you ever heard the term somebody is  
 17 out of their rabid mind?  
 18 A. I've heard it, yes, sir.  
 19 Q. Do you know that could have applied to  
 20 the sheriff, that he had lost his rabid mind on  
 21 that day when he said that statement?  
 22 A. What exactly is rabid mind? I mean,  
 23 I've heard the statement, but I don't know  
 24 exactly know if it refers to somebody going crazy  
 25 or -- what is it?

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1 A. I don't really know to be honest with  
 2 you.  
 3 Q. All right.  
 4 MR. MOORE: I tender the witness.  
 5 MS. MALONE: I don't have any questions  
 6 for this witness.  
 7 (WHEREUPON, THE DEPOSITION CONCLUDED AT  
 8 3:27 p.m.)  
 9 (FURTHER DEPONENT SAITH NOT.)  
 10 (SIGNATURE NOT WAIVED.)  
 11  
 12  
 13  
 14  
 15  
 16  
 17  
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 19  
 20  
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 22  
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 24  
 25

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1 Q. I get to ask the questions. You get to  
 2 answer them. Do you think he had lost his mind  
 3 when he said it?  
 4 A. No, sir. I think he was possibly in the  
 5 heat of the moment somehow. Like I said, I don't  
 6 know how. I wasn't there. I don't know, sir.  
 7 Q. Does being in the heat of the moment  
 8 justify his statement?  
 9 A. I know that when some people get in,  
 10 say, the heat of the moment or something happens  
 11 that may endanger their lives, we all do it.  
 12 Every one of us is human. We all make human  
 13 mistakes. So I'm not saying it was justified,  
 14 but what I'm saying is I know we all probably do  
 15 and say things when something like that happens.  
 16 So that's why I said something had to  
 17 have happened. We're all human. We're not  
 18 perfect. I know everybody thinks the police is  
 19 supposed to be perfect. But I mean, he slipped.  
 20 And like I said, I know his heart and that's not  
 21 his heart. And that's just what happened I'm  
 22 assuming. That's why we're here today.  
 23 Q. Do you think you would be here today  
 24 being deposed by me if he had not have made that  
 25 statement?

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1 C E R T I F I C A T E  
 2  
 3 STATE OF MISSISSIPPI:  
 COUNTY OF DESOTO:  
 4  
 5 I, POLLY W. WARDLAW, Court Reporter  
 and Notary Public, DeSoto County, Mississippi,  
 6 CERTIFY:  
 7 The foregoing proceedings were taken  
 before me at the time and place stated in the  
 8 foregoing styled cause with the appearances as  
 noted.  
 9  
 Being a Court Reporter, I then  
 10 reported the proceeding in Stenotype, and the  
 foregoing pages contain a true and correct  
 11 transcript of my said Stenotype notes then and  
 there taken.  
 12  
 I am not in the employ of and am not  
 13 related to any of the parties or their counsel,  
 and I have no interest in the matter involved.  
 14  
 I FURTHER CERTIFY that in order for  
 15 this document to be considered a true and correct  
 copy, it must bear my signature seal, and that  
 16 any reproduction in whole or in part of this  
 document is not authorized and not to be  
 17 considered authentic.  
 18 Witness my signature this, the  
 19 12th  
 20   
 21  
 22 Notary Public at Large  
 For the State of Mississippi  
 23  
 24 My Commission Expires:  
 June 4, 2025  
 25

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1 ERRATA SHEET FOR THE TRANSCRIPT OF:  
2 AUSTIN TOUCHSTONE  
3  
4 CORRECTIONS  
5 Page Line Now Reads Should Read Reasons  
6 \_\_\_\_\_  
7 \_\_\_\_\_  
8 \_\_\_\_\_  
9 \_\_\_\_\_  
10 \_\_\_\_\_  
11 \_\_\_\_\_  
12 \_\_\_\_\_  
13 \_\_\_\_\_  
14 \_\_\_\_\_  
15 \_\_\_\_\_  
16 \_\_\_\_\_  
17 \_\_\_\_\_  
18 \_\_\_\_\_  
19 \_\_\_\_\_ (Date) Signature of Witness  
20 Sworn to and Subscribed before me, \_\_\_\_\_,  
21 this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.  
22 \_\_\_\_\_  
23 \_\_\_\_\_  
24 \_\_\_\_\_  
25 \_\_\_\_\_

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1 jmalone@aabalegal.com  
2 October 12, 2021  
3 RE: Tilman, Marquis v. Clarke County, Et Al.  
4 DEPOSITION OF: Austin Touchstone (# 4810395)  
5 The above-referenced witness transcript is  
6 available for read and sign.  
7 Within the applicable timeframe, the witness  
8 should read the testimony to verify its accuracy. If  
9 there are any changes, the witness should note those  
10 on the attached Errata Sheet.  
11 The witness should sign and notarize the  
12 attached Errata pages and return to Veritext at  
13 errata-tx@veritext.com.  
14 According to applicable rules or agreements, if  
15 the witness fails to do so within the time allotted,  
16 a certified copy of the transcript may be used as if  
17 signed.  
18 Yours,  
19 Veritext Legal Solutions  
20  
21  
22  
23  
24  
25

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A Veritext Company

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www.veritext.com

[&amp; - beating]

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS  
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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